

U. S. COURTS, KEEP OFF

EBERHART PROVIDES A SENSATION FOR THE GOVERNORS.

Proposes That They Ask Congress to Compel Federal Courts to Try Railroad Cases Alone Till State Courts Have Been Exhausted—Other Topics.

WASHINGTON, Jan. 19.—Adolph O. Eberhart, the tall, slight young man who became Governor of Minnesota when John A. Johnson died last fall, created the first real sensation of the third conference of the State executives late this afternoon when he brought before the assembled Governors a resolution calling on Congress to enact certain legislation. The excitement was of the subdued sort and there was little debate at the time over the resolution. But the Governor afterward expressed the idea that the proposition to submit tentative legislation or suggestions for legislation to Congress was most radical.

The resolution is aimed to prevent Federal courts from taking cognizance of cases against common carriers "when the statutes provide a method by which the orders of a State commission can be reviewed in the courts of the State and when the State courts have authority to stay the operation of the order pending such proceedings in review."

"The statutes of the United States," continues the resolution, "should expressly provide that the Federal courts shall exercise no jurisdiction whatever until the final determination of the proceedings by the highest court of the State. If the State court has no authority to stay the operation of the order pending the proceedings in review then the Federal court to that extent should exercise jurisdiction."

"Interference between the Federal courts with orders of State railroad commissions has been in the past a source of irritation, not so much because of any objection to the exercise of Federal authority as by reason of the manner in which that authority has been exerted. In our opinion the friction heretofore existing would largely be obviated if railroads and holders of their securities were obliged fully to exhaust the remedies provided by the States before resorting to the Federal courts, and such is the apparent intention of the Supreme Court of the United States."

The resolution says that where no method is provided by State statutes for legal review of a commission's order Federal courts should exercise the same jurisdiction as now, "since some method ought to be and must be provided by which these public service corporations can avail themselves of the protection afforded by the Constitution of the United States." If a commerce court as suggested by President Taft is created to review orders of the Interstate Commerce Commission, writes of error should lie to that court and injunctions against the orders of State commissions should issue from it. The resolution closes as follows:

"We therefore recommend that Congress pass suitable laws to accomplish the suggestions of this conference and that the secretary forward a copy of this resolution to Congress and urge its consideration and enactment into law."

The Minnesota Executive, after reading his resolution, moved for its adoption, but when several Governors suggested that it was of such importance that great deliberation was necessary he agreed to its submission to five Governors as a committee.

Gov. Pothier, who was in the chair, appointed Govs. Fort, Harmon of Ohio, Burke of North Dakota, Prouty of Vermont and Ansel of South Carolina on the committee. The five Governors retired immediately to consider the resolution, but adjourned an hour later, to meet to-morrow morning before the regular conference begins.

It was made known after the committee meeting that there will be a serious debate over the proposition to submit the resolution to Congress. Never before in the brief history of the conference has a resolution been presented to the national legislature, and so far as any one remembered to-night no resolution has been presented to Congress before.

It is the opinion of some of the Governors that the present conference is for the consideration of State reforms and was called to meddle in national legislation. Few predictions were forthcoming on the fate of the resolution, but it seemed likely that it would not be adopted, at least with its clauses tacked to it for forwarding to Congress.

At the morning session conservation of natural resources was the principal topic of discussion and while there wasn't any agreement among the executives nor any plan adopted as to how resources could be best conserved, it seemed to be the idea of the conference that within the next few years there is going to be a general movement among the States looking to the preservation of forests and water power. Gov. Quinby of New Hampshire led the discussion with a paper on forests.

Following the address of Gov. Quinby there was a general discussion in which Governors Hughes of New York, Fort of New Jersey, Draper of Massachusetts, Carroll of Iowa, Comer of Alabama and Willson of Kentucky participated. Gov. Hughes said that fifty years from now the people of New York would be able to look back to this period to see that then the first definite steps for the preservation of the water power of the State were begun.

Gov. Fort explained how most of the water power of his State had been given away through a grant to Alexander Hamilton, which had been transmitted to other agencies. He said, however, that he favored the State's retaining the water power to the State by legislation.

Gov. Willson objected to the idea of national interference in the conservation of water power and said that it was an invasion of the rights of the States, which he would resist.

Gov. Fort of New Jersey made the first address of the afternoon. His subject was "State Regulation of Quasi-Public Enterprises."

"All thoughtful men see," he said, "that the temper of the people of the country is such that they mean to have something to say in the matter of corporate regulation. He is an unwise man who fails to see this sign of the times. Nor do I think that the managers of the railroads and public utility corporations believe that proper regulation through State or national commissions is either injurious or objectionable. Such commissions properly organized can be made helpful and promotive of public confidence and support. The true relation of the State to the public serving corporations is not a matter for solution in a day or a year. Great problems in governmental affairs require time to work them out. Our natural enthusiasm and urgency for immediate results often lead to precipitate action. In getting on safe ground in these great industrial trade and transportation questions mistakes will be made. There must be mutual inclination to be just."

Gov. Blodgett of Missouri spoke next on railroad rate regulation. "There are those," he said, "who contend that while it is the right of the State and the national Government to regulate the charges and the service of public service corporations, it is inadvisable, particularly in the case of railroads, for this power to be exercised at all; that the fixing of the rates of transportation, particularly in freight traffic, is a science with which legislation or commission is poorly qualified to deal."

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